

## **REMARKS**

Applicants have considered the Examiner's comments set forth in the Office Action of January 28, 2009. Reconsideration of the Application is requested in view of the comments and amendments therein.

### **I. The Office Action**

Claims 1-3, 5-9, 10, 14, 15, 17, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vild (U.S. 6217823) in view of Anderson and Mordue (U.S. 6451247).

Claims 11, 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Vild, Anderson and Mordue and further in view of Hall (U.S. 1773729).

Claim 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Vild, Anderson and Mordue and further in view of Gilbert (U.S. 6036745).

### **II. Rejections**

Independent claims 1 and 10 disclose a scrap submergence device comprising a body defining a submergence chamber comprised of a refractory material, wherein said body comprises a side wall and a base, the side wall including an at least substantially vertically oriented passage, and the base including an at least substantially vertically oriented passage aligned with the passage in the side wall, at least one inlet passage and at least one discharge passage. As amended, each claim also requires a frame at the top portion of the submergence device and a frame flange at a top edge thereof. The flange includes a hole aligned with the passage in the sidewall. A rod is inserted into the flange holes the at least one side wall passage and received by the at least one base passage. The rod is placed under tension to impart a compressive load on the body and secure the frame to the device.

Neither Vild, Anderson, Mordue, Hall or Gilbert teach a frame or flange/rod arrangement as presently claimed. Accordingly, withdrawal of the rejection is requested.

In addition, Applicants note that the Examiner previously relied upon Nissim in rejecting claims directed to a frame. Nissim teaches an open hearth furnace having at least one "charging section" of its roof formed separately from the hearth and from the remainder of the roof, and also a means for transferring the charging section so as to lie above another portion of the furnace roof. Although Nissim does teach a frame to withstand thermal expansion, Applicant

asserts that there is no suggestion to combine the teachings of Vild, Mordue and Nissim, as done by the Examiner, unless Applicant's invention is used as a template through a hindsight reconstruction of Applicant's claims. In light of the problem Nissim aims to solve, a person of ordinary skill in the art would not have looked to Nissim to solve the problem set forth in the present invention.

Furthermore, Nissim does not teach the frame with a flange as a constituent with a tension rod to secure all compartments of the device together. Accordingly, Applicants respectfully request the rejection be withdrawn.

**CONCLUSION**


For the reasons detailed above, it is respectfully submitted all claims remaining in the application are in condition for allowance.

Respectfully submitted,

FAY SHARPE LLP

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Date



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Scott A. McCollister, Reg. No. 33,961  
1100 Superior Avenue, Seventh Floor  
Cleveland, OH 44114-2579  
216-861-5582